

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE EFFECTS OF THE TAX REFORM ACT OF)	ADMINISTRATIVE
1986 ON CONTRIBUTIONS IN AID OF)	CASE NO. 313
CONSTRUCTION AND CUSTOMER ADVANCES)	

O R D E R

On June 15, 1990, the Franklin Circuit Court entered a decision in Brown Sprinkler Corp. et. al v. Ky. Public Service Comm'n, Civil Action No. 88-CI-0939, holding that the Commission erred in not requiring utilities to refund the tax portion of contributions in aid of construction ("CIAC") paid by contributors and customers between June 11, 1987 and April 15, 1988. The Franklin Circuit Court decision reversed that portion of the Commission's July 8, 1988 Order in this case that denied refunds to contributors and customers. The Court further remanded Case No. 313 to the Commission with instructions to order the tax portion of CIAC be refunded and to allow the affected utilities to expeditiously adjust their rates to recoup the amounts refunded.

In accordance with the Franklin Circuit Court's instructions, the Commission finds that all utilities that collected CIAC that was "grossed-up" to include income taxes between June 11, 1987 and April 15, 1988, should refund the income tax portion within 20 days of the date of this Order. Any utility that is adversely affected by the payment of refunds may, within 60 days of the date of this Order, file proposed tariffs setting forth a surcharge

designed to recoup the refunds over a 12 month period. Any tariff filing seeking a surcharge must be supported by a complete 12 month billing analysis.

IT IS THEREFORE ORDERED that:

1. Every utility that collected, between June 11, 1987 and April 15, 1988, CIAC that was "grossed-up" to include income taxes shall refund the income tax portion within 20 days of the date of this Order.

2. Every utility that makes a refund as ordered herein shall file, within 40 days of the date of this Order, a report, verified under oath by an officer of the utility, setting forth the following information for each CIAC collected between June 11, 1987 and April 15, 1988: the total amount, the portion attributable to income taxes, the portion not attributable to income taxes, the name and address of the contributor or customer, the date collected, and the amounts and dates of each refund.

3. Any utility adversely affected by this Order shall be authorized to file, within 60 days of the date of this Order, proposed tariffs setting forth a surcharge designed to recoup the refunds over a 12 month period. Any tariff filing shall be supported by a complete 12 month billing analysis.

Done at Frankfort, Kentucky, this 1st day of August, 1990.

ATTEST:


Executive Director

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner